

- (1) kept separate from adult files and records, and
- (2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Open Records Decision No. 644 (1996) still applies to records concerning juvenile conduct that occurred from January 1, 1996 to August 31, 1997. Section 58.007(c) of the Family Code only applies to juvenile law enforcement records concerning juvenile conduct occurring on or after September 1, 1997, that are maintained by law enforcement agencies. Juvenile law enforcement records concerning conduct that occurred before January 1, 1996, are governed by former section 51.14(d) of the Family Code, which is continued in effect for that purpose.²

Here, one of the requested incident reports, 97-112376, involves juvenile conduct that occurred on November 22, 1997. Thus, section 58.007(c) of the Family Code, as amended, applies to incident report number 97-112376. Accordingly, you must withhold this report under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

We now address your claimed exception under section 552.108 of the Government Code for the remaining requested reports. Section 552.108 provides, in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [public disclosure] if:

- (1) release of the information would interfere with the detection, investigation, or prosecution of crime;
- (2) it is information that deals with the detection, investigation or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or
- (3) it is information that:
 - (A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or
 - (B) reflects the mental impressions or legal reasoning of an attorney representing the state.

²Act of June 2, 1997, H.B. 1550, 75th Leg., R.S.

You assert that the reports at issue are excepted from disclosure "because the cases have not been adjudicated and therefore have not resulted in a conviction or deferred adjudication against any person." Generally, a governmental body claiming an exception from disclosure under section 552.108(a)(1) must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *Ex parte Pruitt*, 551 S.W. 2d 706 (Tex. 1977). You have not stated that the requested information pertains to an ongoing criminal investigation or prosecution or explained how its release would interfere in some way with the detection, investigation, or prosecution of crime.

A governmental body claiming section 552.108(a)(2) should demonstrate that the requested information relates to a concluded criminal investigation that has come to some type of final result other than a conviction or deferred adjudication. It is not clear to this office, nor have you explained, how or if the investigations of the cases actually concluded.³

You do not assert that the information at issue was prepared by an attorney representing the state or that it reflects the mental impressions or legal reasoning of an attorney representing the state. Thus, section 552.108(a)(3) is inapplicable to the documents at issue. Since you have not shown the applicability of section 552.108 to the records at issue, you must release incident report numbers 96-99194, 96-99195, 97-89278, 97-111835, and 97-111907 in their entirety to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/ulg

Ref.: ID# 112864

³Upon review of the submitted documents, we note that the investigation concerning offense report number 97-89278 appears to have resulted in a conviction.

Enclosures: Submitted documents

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(w/o enclosures)